



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 13, 1996

Mr. Gary Smith
City Attorney
City of Greenville
2821 Washington
P.O. Box 1049
Greenville, Texas 75403-1049

OR96-1655

Dear Mr. Smith:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100593.

The City of Greenville (the "city") received a request for certain police offense and incident records. You apparently have provided the requestor with a portion of the information requested. However, you contend that some of the information at issue is excepted from disclosure under section 552.108 of the Government Code. You also assert that marked information in one incident report is protected from disclosure by common-law privacy under section 552.101 of the Government Code. Additionally, you contend that some of the reports are excepted from disclosure in their entirety pursuant to section 58.007 of the Family Code in conjunction with section 552.101 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime." and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). However, the type of information normally found on the front page of an offense or arrest report is generally considered public. See generally *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, pursuant to section 552.108 of the Government Code, you may withhold from disclosure all but the first page type of information in the incident and offense reports at issue. We will consider your

other arguments against disclosing the front page information in some of the reports at issue.

You contend that some of the information at issue is excepted from disclosure under common-law privacy under section 552.101 of the Government Code. The test to determine whether information is private and excepted from disclosure under common-law privacy is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977). We have reviewed the information you marked and agree that it is protected from disclosure by common-law privacy. This information may therefore not be released to the public.

You assert that some of reports are confidential in their entirety, including the front page offense report information, pursuant to section 552.101 of the Government Code in conjunction with provisions of the Family Code. You submitted to this office for review the requested reports, which concern juvenile conduct that occurred prior to January 1, 1996.

Section 51.14 of the Family Code was repealed and substantially revised as part of chapter 58 of the Family Code, effective as of January 1, 1996. Prior to its repeal, section 51.14(d) provided, in pertinent part:

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public

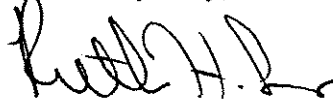
Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Sess. Law Serv. 2517, 2590; *see also* Open Records Decision No. 181 (1977) at 2 (police reports which identify juveniles or furnish basis for their identification are excepted by former Family Code § 51.14(d)). Law-enforcement records pertaining to juvenile conduct that occurred prior to the effective date of the repeal continue to be confidential under that section. *See* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 106, 1995 Tex. Sess. Law Serv. 2517, 2591 (Vernon). Because the juvenile conduct that is the subject of the records at issue occurred prior to January 1, 1996, we conclude that the records at issue are confidential in their entirety and must be withheld from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue

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under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 100593

Enclosures: Submitted documents

cc: Kim Cartier
3604 Cornelia
Greenville, Texas 75401
(w/o enclosures)